IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH

HYDERABAD

THE HON'BLE MR JUSTICE BILAL NAZKI

AND

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION No.7750, 7775, 7783 of 2002

And

W.P.No. 1707 of 2005

Dt.08..12..2005

W.P.No.7750 of 2002:

Between:

M/s. Godrej Hicare Limited,

(now known as Godrej Saralee Ltd.,)

4-105/A, Ramanthapur, Hyderabad.

… Petitioner.

A n d

The Joint Commissioner of Commercial

Taxes (Legal), A.P., Hyderabad & another.

…. Respondents.

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COMMON ORDER: (Per Hon'ble Mr. Justice Bilal Nazki)

Initially these writ petitions are filed challenging the notice for revision of assessment. Subsequently, the writ petitions were amended to include to challenge the revisional orders passed. The matters relate to the same assessee for different years, and the controversy in all the four writ petitions is also same. The issue needs to be considered is whether 'mosquito repellents' are exigible to tax under Entry 78 of Schedule-I, which includes pesticides and insecticides, or, whether 'mosquito repellents' are exigible to tax under 'general goods'.

2. This matter has been decided by the Sales Tax Appellate Tribunal in its judgment dated 10.01.1990, reported in ***M/s.Kumar Agencies, Nellore v. The State of A.P.***. A Full Bench of this Court in ***Indo National Limited vs. CCT, Hyderabad*** has decided that the judgments of the Tribunal are binding on the Sales Tax authorities. It is contended by Mr. S. Ravi, learned counsel appearing for the petitioners that the revisional authority has passed an order, which is contrary to the judgment of the Tribunal and hence on this ground alone, it is liable to be struck down. The learned Special Government Pleader appearing for the Department, however, submits that there is no quarrel with the proposition that orders of the Tribunal are binding on the officers of the Sales Tax Department, but after the judgment of the Tribunal, a judgment of the Supreme Court was delivered in ***Sonic Electrochem v. Sales Tax Officer***, which differentiates the 'mosquito repellents' from 'pesticides and insecticides'.

3. We have gone through judgment referred to above. The Supreme Court was dealing with a case from Gujarat, and the Gujarat Sales Tax Act has a specific entry for ‘Jet Mat’. Therefore, the Supreme Court concluded that as there was an entry for ‘Jet Mat’ separately, it could not be included in an entry for ‘pesticides and insecticides’. Admittedly, there was no separate entry for ‘mosquito repellents’ in Andhra Pradesh General Sales Tax Act at the relevant point of time. A specific entry, however, has been now carved out in the Schedule with effect from 01.01.2000 as Entry-203.

4. In these circumstances, we hold that the ‘mosquito repellants’ shall be treated as ‘insecticides’ till 1.1.2000, and therefore, the revisional orders to that extent are set aside.

5. The writ petitions are accordingly allowed to the extent indicated. No costs.

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Bilal Nazki, J.

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S.Ananda Reddy,J.

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